

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01501-KBJ**

BUZZFEED INC. v. U.S. IMMIGRATION & CUSTOMS
ENFORCEMENT et al
Assigned to: Judge Ketanji Brown Jackson
Cause: 05:552 Freedom of Information Act

Date Filed: 06/25/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

BUZZFEED INC.

represented by **Matthew Lynn Schafer**
BUZZFEED INC.
111 East 18th Street
14th Floor
New York, NY 10003
(646) 798-0693
Fax: (212) 431-7461
Email: matthew.schafer@buzzfeed.com
TERMINATED: 02/28/2019

Merrick Jason Wayne
LOEVY & LOEVY
311 N. Aberdeen Street
Third Floor
Chicago, IL 60607
(312) 243-5900
Fax: (312) 243-5902
Email: merrick@loevy.com
ATTORNEY TO BE NOTICED

Matthew Topic
LOEVY & LOEVY
311 N. Aberdeen Street
Third Floor
Chicago, IL 60607
(312) 243-5900
Fax: (312) 243-5902
Email: matt@loevy.com
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. IMMIGRATION & CUSTOMS
ENFORCEMENT**

represented by **John Moustakas**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2518
Email: john.moustakas@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Melanie Dyani Hendry
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2510
Fax: (202) 252-2599

Defendant

**U.S. DEPARTMENT OF
HOMELAND SECURITY**

represented by **John Moustakas**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Melanie Dyani Hendry
(See above for address)
TERMINATED: 08/07/2019

Date Filed	#	Docket Text
06/25/2018	<u>1</u>	COMPLAINT against U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT (Filing fee \$ 400 receipt number 0090-5553645) filed by BUZZFEED INC.. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Civil Cover Sheet Civil Cover Sheet, # <u>6</u> Summons Summons)(Topic, Matthew) (Entered: 06/25/2018)
06/25/2018	<u>2</u>	NOTICE of Appearance by Matthew Topic on behalf of BUZZFEED INC. (Topic, Matthew) (Entered: 06/25/2018)
06/25/2018		Case Assigned to Judge Ketanji Brown Jackson. (zsth) (Entered: 06/26/2018)
06/26/2018	<u>3</u>	SUMMONS (4) Issued Electronically as to U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zsth) (Entered: 06/26/2018)
07/11/2018	<u>4</u>	NOTICE of Appearance by Matthew Lynn Schafer on behalf of BUZZFEED INC. (Schafer, Matthew) (Entered: 07/11/2018)
07/18/2018	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF HOMELAND SECURITY served on 7/3/2018 (Topic, Matthew) (Entered: 07/18/2018)
07/18/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. IMMIGRATION & CUSTOMS ENFORCEMENT served on 7/13/2018 (Topic, Matthew) (Entered: 07/18/2018)
07/18/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 7/9/2018. (Topic, Matthew) (Entered: 07/18/2018)
07/18/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 7/5/2018. Answer due for ALL FEDERAL DEFENDANTS by 8/4/2018. (Topic, Matthew) (Entered: 07/18/2018)
08/02/2018	<u>9</u>	ANSWER to Complaint by U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT.(Hendry, Melanie) (Entered: 08/02/2018)
09/04/2018	<u>10</u>	GENERAL ORDER AND GUIDELINES APPLICABLE TO FOIA CASES ASSIGNED TO JUDGE KETANJI BROWN JACKSON. The Court will hold the parties and counsel responsible for following these directives, and parties and counsel should pay particular attention to the Courts instructions for processing and production of records, batching motions, and filing exhibits. Failure to adhere to this Order may, when appropriate, result the imposition of sanctions and/or sua sponte denial of non-conforming motions. Signed by Judge Ketanji Brown Jackson on 9/4/2018. (lckbj1) (Main Document 10 replaced on 9/5/2018) (zhs). (Entered: 09/04/2018)
09/04/2018		MINUTE ORDER. Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall review this Courts <u>10</u> General Order and

		Guidelines Applicable to FOIA Cases, and promptly confer and file a joint proposed schedule for disclosure or briefing motions for summary judgment, on or before 9/18/2018. Signed by Judge Ketanji Brown Jackson on 09/04/2018. (lckbj1) (Entered: 09/04/2018)
09/06/2018		Set/Reset Deadlines: Proposed Briefing Schedule due by 9/18/2018 (tj) (Entered: 09/06/2018)
09/18/2018	<u>11</u>	Joint STATUS REPORT <i>Concerning Proposed Schedule</i> by BUZZFEED INC.. (Topic, Matthew) (Entered: 09/18/2018)
09/19/2018		MINUTE ORDER setting a Telephone Conference for 10/4/2018 at 11:00 AM in Chambers before Judge Ketanji Brown Jackson. Counsel will be provided dial-in information by e-mail. Signed by Judge Ketanji Brown Jackson on 09/19/2018. (lckbj1) (Entered: 09/19/2018)
10/04/2018		Minute Entry for proceedings held before Judge Ketanji Brown Jackson: Telephone Conference held in chambers on 10/4/2018. (Court Reporter Sara Wick) (gdf) (Entered: 10/04/2018)
10/04/2018	<u>12</u>	ORDER. On or before October 16, 2018, Defendant ICE shall file a supplemental memorandum that addresses the agency's FOIA-processing capacity and the reason for the delay in this case. Signed by Judge Ketanji Brown Jackson on 10/4/18. (lckbj3) (Entered: 10/04/2018)
10/04/2018		Set/Reset Deadlines: Supplemental Memorandum due by 10/16/2018. (gdf) (Entered: 10/04/2018)
10/16/2018	<u>13</u>	RESPONSE TO ORDER OF THE COURT re <u>12</u> Order, <i>Declaration of ICE FOIA Officer Catrina Pavlik-Keenan</i> filed by U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT. (Hendry, Melanie) (Entered: 10/16/2018)
10/19/2018	<u>14</u>	MOTION for Leave to File <i>Response to Defendant's Declaration Regarding Production Schedule</i> by BUZZFEED INC. (Attachments: # <u>1</u> Exhibit Response to Declaration)(Topic, Matthew) (Entered: 10/19/2018)
10/19/2018		MINUTE ORDER granting <u>14</u> Motion for Leave to File Response to Defendant's Declaration Regarding Production Schedule. Signed by Judge Ketanji Brown Jackson on 10/19/2018. (lckbj1) (Entered: 10/19/2018)
10/19/2018	<u>15</u>	RESPONSE to <i>Defendant's Declaration Regarding Production Schedule</i> filed by BUZZFEED INC.. (Topic, Matthew) (Entered: 10/19/2018)
10/22/2018		MINUTE ORDER. The Court has reviewed ICEs declaration <u>13</u> , and while it has no reason to question the comprehensive description of ICEs current processing capacity with respect to an ordinary request (see Paragraph 18 (explaining that, given the number of employees who are working on FOIA requests and the number of pending requests, the agency cannot produce more than 500 pages per month in each case)), the declaration does not address the fact that the instant request qualifies for special treatment given its declared expedited processing status, and the agencys considerable and unexplained delay in producing ANY records in this matter, particularly in light of its purported first-in, first-out approach to managing backlogged requests. (See Paragraph 17.) The fact that the agency may have granted this request for expedited processing in error is irrelevant; the request at issue has been delegated as such. Moreover, because this case involves a request that was submitted at the end of FY 2017, and the parties have now entered FY 2019 without any records having been produced, the agency will need to shift resources to address the pending request at a faster rate than it is handling other matters. Accordingly, it is hereby ORDERED that ICE process the approximately 8,100 pages of responsive records at a rate of 1,000 pages per month, to be completed on or before August 1, 2019. It is further ORDERED that the first monthly production must occur on or before December 1, 2018, and that the parties shall file a status report 60 days after the first production and every 60 days thereafter. Signed by Judge Ketanji Brown Jackson on 10/22/2018. (lckbj3) (Entered: 10/22/2018)
02/13/2019		MINUTE ORDER. On October 22, 2018, this Court entered a minute order requiring ICE to process records at a rate of 1,000 pages per month, with the first production to

		take place on or before December 1, 2018. (See Minute Order of October 22, 2018.) The Court further ordered the parties to "file a status report 60 days after the first production and every 60 days thereafter." (See id.) The first of these joint status reports should have been filed no later than February 1, 2019, but, to date, the parties have not done so. Accordingly, it is hereby ORDERED that the parties file a joint status report on or before February 25, 2019. Signed by Judge Ketanji Brown Jackson on 2/13/19. (lckbj3) (Entered: 02/13/2019)
02/13/2019		Set/Reset Deadlines: Joint Status Report due by 2/25/2019. (gdf) (Entered: 02/13/2019)
02/25/2019	<u>16</u>	Joint STATUS REPORT by U.S. IMMIGRATION & CUSTOMS ENFORCEMENT. (Hendry, Melanie) (Entered: 02/25/2019)
02/28/2019	<u>17</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to BUZZFEED INC.. Attorney Matthew Lynn Schafer terminated. (Schafer, Matthew) (Entered: 02/28/2019)
03/13/2019		MINUTE ORDER. In light of the representations in the parties' <u>16</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report on or before 4/26/2019, and every 60 days thereafter, which shall include a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 3/13/2019. (lckbj1) (Entered: 03/13/2019)
03/25/2019	<u>18</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by BUZZFEED INC. (Topic, Matthew) (Entered: 03/25/2019)
04/24/2019	<u>19</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT. (Hendry, Melanie) (Entered: 04/24/2019)
06/26/2019	<u>20</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT. (Hendry, Melanie) (Entered: 06/26/2019)
06/26/2019		MINUTE ORDER. In light of the representations in the parties' <u>20</u> Joint Status Report, it is hereby ORDERED that, on or before 8/26/2019, the parties shall file a further joint status report, which shall include a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 6/26/2019. (lckbj1) (Entered: 06/26/2019)
08/06/2019	<u>21</u>	NOTICE of Appearance by Merrick Jason Wayne on behalf of BUZZFEED INC. (Wayne, Merrick) (Entered: 08/06/2019)
08/07/2019	<u>22</u>	NOTICE OF SUBSTITUTION OF COUNSEL by John Moustakas on behalf of U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT Substituting for attorney Melanie Hendry (Moustakas, John) (Entered: 08/07/2019)
08/26/2019	<u>23</u>	Joint STATUS REPORT by BUZZFEED INC.. (Topic, Matthew) (Entered: 08/26/2019)
08/27/2019		MINUTE ORDER adopting the parties' proposed briefing schedule. It is hereby ORDERED that the following deadlines are set for briefing summary judgment: Defendant's Motion for Summary Judgment shall be served on or before 11/26/2019; Plaintiff's Opposition and Cross-Motion for Summary Judgment shall be served on or before 1/7/2020; Defendant's Reply and Cross-Motion Opposition shall be served on or before 1/28/2020; Plaintiff's Cross-Motion Reply shall be served on or before 2/18/2020; briefs shall be filed as a batch within three (3) business days of the service of the last reply brief authorized by this Minute Order, but in any event no later than the Final Filing Deadline of 3/24/2020. Signed by Judge Ketanji Brown Jackson on 8/27/2019. (lckbj1) (Entered: 08/27/2019)
11/26/2019	<u>24</u>	Consent MOTION to Stay <i>Summary Judgment Briefing</i> by U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION & CUSTOMS ENFORCEMENT (Moustakas, John) (Entered: 11/26/2019)